

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 3:08-CR-137
)	(VARLAN /GUYTON)
SUSAN WELCH COOPER,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

All pretrial motions in this case have been referred to the undersigned pursuant to 28 U.S.C. § 636(b) for disposition or report and recommendation regarding disposition by the District Court, as may be appropriate. This case is before the Court on counsel's Motion to Withdraw [Doc. 8]. The parties appeared before the Court on October 28, 2008. Assistant United States Attorney Gregory Weddle was present representing the Government. Attorney Gregory Harrison was present representing the Defendant, who was also present.

Attorney Harrison stated that he had represented the Defendant in her divorce for a time, but no longer represents the Defendant in that matter. Attorney Harrison confirmed that he initially appeared before the Court on behalf of the Defendant, but he has since learned that the Defendant is indigent. Attorney Harrison stated that his conversations with the Defendant and his knowledge of her divorce lead him to believe that appointment of counsel would be appropriate in this case, and therefore, he seeks to withdraw. Attorney Harrison said he had discussed his withdrawal with the Defendant numerous times, and she did not object.

The Defendant confirmed that she had discussed the Motion to Withdraw with Attorney and did not object, but the Defendant asked that the Court appoint her counsel. The Government had no objection to the Motion to Withdraw or the Defendant's request for a new attorney. Accordingly, the Court finds that the Attorney Harrison's request to withdraw is well-taken, and therefore, the Motion to Withdraw **[Doc. 8]** is **GRANTED**.

Attorney Kim Tollison was present in the courtroom and agreed to accept representation of the Defendant on behalf of himself and the Federal Defenders Office. The Defendant agreed to the appointment of Attorney Tollison and the Federal Defenders Office. The Court substitutes and appoints Attorney Tollison, along with Civil Justice Act ("CJA") panelist-in-training Attorney Casey Spitzer, under the CJA as counsel of record for the Defendant. Upon appointment, Attorney Tollison made an oral motion to continue the Defendant's trial to January 28, 2009, a date previously discussed with the Defendant. The Government had no objection.

The Court finds that the ends of justice served by granting the motion outweigh the best interest of the public and the Defendant in a speedy trial. 18 U.S.C. § 3161(h)(8)(A). Newly appointed counsel will need time to review the case and file any appropriate motions. The Court must have time to issue any necessary reports and recommendations, and the District Court will need time to rule upon the report and recommendation and the objections thereto. 18 U.S.C. § 3161(h)(1)(J). The Court finds that all of this could not take place before the December 1, 2008 trial date, despite counsels' use of due diligence. See 18 U.S.C. § 3161(h)(8)(B)(iv). Accordingly, the Court finds that Defendant's oral motion to continue the trial date is well-taken, and therefore, it is **GRANTED**.

Accordingly:

1. The Motion to Withdraw [**Doc. 8**] is **GRANTED**. Gregory H. Harrison is relieved of any further responsibility in this case, and Attorney Kim Tollison and Attorney Casey Spitzer are **APPOINTED** as CJA counsel for the Defendant;
2. The trial date is continued from **December 1, 2008**, to **January 28, 2009**;
3. A pretrial conference is set for **January 21, 2009 at 2:00 p.m.**;
4. The Defendant shall have up to and including **November 18, 2008**, to file motions, and the Government shall have up to and including **December 2, 2008**, to respond to any motions; and
5. All time between the October 28, 2008 hearing and the January 28, 2009, trial date is fully excludable under the Speedy Trial Act.

IT IS SO ORDERED.

ENTER:

s/ H. Bruce Guyton
United States Magistrate Judge